



Reprinted
April 13, 2001

ENGROSSED SENATE BILL No. 295

DIGEST OF SB 295 (Updated April 12, 2001 11:12 AM - DI 106)

Citations Affected: IC 15-5; noncode.

Synopsis: Dog attacks. Specifies that a dog owner may be held civilly liable if the owner's dog attacks a person who is carrying out a duty imposed by state law, federal law, postal regulations, a local ordinance, or under the authority of a public utility. Provides that a dog owner who recklessly, knowingly, or intentionally fails to restrain the owner's dog commits a class C misdemeanor if the dog attacks a person not on the owner's property. Establishes enhanced penalties for repeat offenses, or if the victim suffers serious injury or death. Provides that a dog owner who fails to post a conspicuous sign warning of the dog, or knowingly, or intentionally fails to restrain the owner's dog during the daylight hours commits a class B misdemeanor if the dog attacks a person on the owner's property and the person is carrying out a duty imposed by state law, federal law, postal regulations, a local ordinance, or under the authority of a public utility. Requires a person who has a duty to enter the dog owner's property but who cannot enter the owner's property because of the dog to obtain a court order or notify the property owner by certified mail of the person's inability to enter the dog owner's property. Establishes enhanced penalties for repeat offenses or if the victim suffers serious injury or death.

Effective: July 1, 2001.

Simpson

(HOUSE SPONSORS — KRUZAN, FOLEY)

January 11, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

March 1, 2001, amended, reported favorably — Do Pass.

March 6, 2001, read second time, amended, ordered engrossed.

March 7, 2001, engrossed. Read third time, passed. Yeas 47, nays 2.

HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

April 5, 2001, amended, reported — Do Pass.

April 10, 2001, read second time, ordered engrossed. Engrossed.

April 12, 2001, read third time, returned to second reading for purpose of amendment. Reread second time, amended, ordered engrossed. Reread third time, passed. Yeas 92, nays 0.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED SENATE BILL No. 295

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-5-12-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. **(a) Subject to**
3 **subsections (b) and (c)**, if a dog, without provocation, bites any person
4 who is **acting** peaceably ~~conducting himself~~ in any place where ~~he~~ **the**
5 **person** may be required to go for the purpose of discharging any duty
6 imposed: ~~upon him~~
7 **(1) by the laws or Constitution of this state the State of Indiana;**
8 **or**
9 **(2) by the laws or Constitution of the United States; or**
10 **(3) by postal regulations of the United States of America;**
11 **(4) by an ordinance adopted by a county or municipality (as**
12 **defined in IC 36-1-2); or**
13 **(5) under the authority of a public utility (as defined in**
14 **IC 8-1-2-1);**
15 the owner of such dog may be held **civilly** liable for any damages
16 suffered by the person bitten, regardless of the former viciousness of

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such dog, or the owner's knowledge of such viciousness.

(b) Except as provided in subsection (c), subsection (a) does not apply if, when a dog bite occurs:

(1) the dog referred to in subsection (a) is on the real property of the dog owner; and

(2) there is a sign on the real property of the dog owner that:

(A) is conspicuously posted;

(B) is readable from a public way adjoining the real property of the dog owner; and

(C) warns that a dog is present on the property.

(c) Subsection (b) does not apply if the person who is bitten is:

(1) a firefighter or another provider of emergency services responding to an emergency; or

(2) a law enforcement officer.

SECTION 2. IC 15-5-12-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3.5. (a) If:**

(1) a person:

(A) owns or has control of real property where a person described in section 1(a) of this chapter is bitten; and

(B) owns the dog that bites the person described in section 1(1) of this chapter;

(2) the person who is bitten incurs serious bodily injury from the dog bite; and

(3) the person referred to in subdivision (1) knowingly or intentionally:

(A) fails to have conspicuously posted on the property, at the time of the dog bite, a sign that:

(i) is readable from a public way adjoining the property; and

(ii) warns that a dog is present on the real property; or

(B) if a sign described in clause (A) is not posted on the property, fails to take reasonable steps to restrain the dog when the person is bitten;

the person referred to in subdivision (1) commits a Class B misdemeanor.

(b) The offense under subsection (a) is:

(1) a Class A misdemeanor if the dog owner has a prior unrelated conviction under:

(A) this section;

(B) section 3(b)(2)(B) of this chapter;

(C) section 3(b)(3) of this chapter; or



1 **(D) section 3(b)(4) of this chapter; or**
2 **(2) a Class C felony if the dog bite or attack results in the**
3 **death of a person.**

4 **(c) If a person required to enter a dog owner's property for the**
5 **purpose of discharging a duty described in section 1(a) of this**
6 **chapter is unable to enter the dog owner's property due to the**
7 **presence of the owner's dog, the person shall:**

8 **(1) notify the dog owner by certified mail, return receipt**
9 **requested, that the person is required to enter the dog owner's**
10 **property; or**

11 **(2) obtain an order from a court authorizing the person to**
12 **enter the dog owner's property.**

13 **SECTION 3. [EFFECTIVE JULY 1, 2001] IC 15-5-12-1, as**
14 **amended by this act, and IC 15-5-12-3.5, as added by this act, apply**
15 **only to acts committed after June 30, 2001.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 295, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete ":".

Page 1, delete line 5.

Page 1, line 6, delete "(2)".

Page 1, run in lines 4 and 6.

Page 2, line 2, after "and" insert ":".

Page 2, reset in roman lines 3 through 4.

Page 2, line 5, reset in roman "(2)".

Page 2, delete lines 21 through 29, begin a new paragraph and insert:

"SECTION 3. IC 15-5-12-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3.5. (a) Except as provided in subsection (b), an owner of a dog commits a Class B misdemeanor if:**

(1) the owner knowingly or intentionally fails to take reasonable steps to restrain the dog;

(2) the dog bites or attacks a person on the dog owner's property;

(3) the victim was required to enter the dog owner's property for the purpose of discharging any duty imposed upon the victim by the laws or Constitution of the State of Indiana or by the laws or Constitution of the United States of America, or by postal regulations of the United States of America; and

(4) the dog bite or attack results in serious bodily injury to a person.

(b) The offense under subsection (a) is:

(1) a Class A misdemeanor if the dog owner has a prior unrelated conviction under:

(A) this section;

(B) section 3(b)(2)(B) of this chapter;

(C) section 3(b)(3) of this chapter; or

(D) section 3(b)(4) of this chapter; or

(2) a Class C felony if the dog bite or attack results in the death of a person."

Page 2, line 30, after "IC 15-5-12-1" insert ",".

Page 2, line 30, delete "and".

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Page 2, line 31, delete "both" and insert "**and IC 15-5-12-3.5, all**".
and when so amended that said bill do pass.

(Reference is to SB 295 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 295 be amended to read as follows:

Page 1, line 5, after "imposed" insert ":".

Page 1, line 5, after "him" begin a new line block indented and insert: **"(1)"**.

Page 1, line 6, delete "Indiana" and insert **"Indiana;"**.

Page 1, line 6, before "by" strike "or", begin a new line block indented and insert:

"(2)".

Page 1, line 7, delete "States" and insert **"States;"**.

Page 1, line 7, strike "or", begin a new line block indented and insert:

"(3)".

Page 1, line 8, delete "." and insert ";

(4) by an ordinance adopted by a county or municipality (as defined in IC 36-1-2); or

(5) under the authority of a public utility (as defined in IC 8-1-2-1)." .

Page 1, line 8, begin a new line blocked left beginning with "The".

Page 1, line 11, reset in roman ",."

Page 2, line 30, after "victim" insert ":

(A)".

Page 2, line 30, after "Indiana" delete "or" and insert ";

(B)".

Page 2, line 31, after "America" delete "," and insert ";".

Page 2, line 32, delete "or", begin a new line double block indented and insert:

"(C)".

Page 2, line 32, after "America;", begin a new line double block indented and insert:

"(D) by an ordinance adopted by a county or municipality (as defined in IC 36-1-2); or

(E) under the authority of a public utility (as defined in IC 8-1-2-1);".

Page 3, line 2, after "IC 15-5-12-1" delete "," and insert **"and"**.

Page 3, line 3, delete "and IC 15-5-12-3.5, all".

Page 3, line 3, after "act," insert **"and IC 15-5-12-3.5, as added by this act,"**.

(Reference is to SB 295 as printed March 2, 2001.)

SIMPSON

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SENATE MOTION

Mr. President: I move that Senate Bill 295 be amended to read as follows:

Page 2, line 25, after "dog" insert **"during any day between the hours of 8:00 a.m. and 5:00 p.m."**.

Page 2, line 27, after "property" insert **"during any day between the hours of 8:00 a.m. and 5:00 p.m."**.

Page 2, line 28, after "property" insert **"during any day between the hours of 8:00 a.m. and 5:00 p.m."**.

(Reference is to SB 295 as printed March 2, 2001.)

WATERMAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 295, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "by" and insert "**by**".

Page 2, delete lines 2 through 24.

Page 2, line 30, delete "during any day between" and insert "**on any day during the daylight hours;**".

Page 2, delete line 31.

Page 2, line 33, delete "during any day between the hours of 8:00 a.m. and" and insert "**on any day during the daylight hours;**".

Page 2, delete line 34.

Page 2, line 35, after "property" insert "**on any day during the daylight hours**".

Page 2, delete line 36.

Page 2, run in lines 35 through 37.

Page 3, line 16, after IC 15-5-12-1" insert ",".

Page 3, line 16, delete "and".

Page 3, line 17, delete "IC 15-5-12-3,".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 295 as reprinted March 7, 2001.)

KUZMAN, Chair

Committee Vote: yeas 11, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 295 be returned to second reading forthwith for the purpose of considering an amendment by Representative Whetstone and that immediately following the action on such amendment that said bill be placed on its passage.

KRUZAN

HOUSE MOTION

Mr. Speaker: I move that Senate Bill 295 be amended to read as follows:

Page 1, line 2, after "1." insert "(a)".

Page 1, line 2, delete "If" and insert "**Subject to subsections (b) and (c), if**".

Page 1, line 13, delete "IC 8-1-2-1)." and insert "**IC 8-1-2-1)**";.

Page 1, line 14, delete "The" and insert "the".

Page 1, line 16, reset in roman "or".

Page 1, line 16, delete "viciousness," and insert "viciousness.".

Page 1, line 16, delete "or the fact".

Page 2, delete line 1, begin a new paragraph and insert:

"(b) Except as provided in subsection (c), subsection (a) does not apply if, when a dog bite occurs:

(1) the dog referred to in subsection (a) is on the real property of the dog owner; and

(2) there is a sign on the real property of the dog owner that:

(A) is conspicuously posted;

(B) is readable from a public way adjoining the real property of the dog owner; and

(C) warns that a dog is present on the property.

(c) Subsection (b) does not apply if the person who is bitten is:

(1) a firefighter or another provider of emergency services responding to an emergency; or

(2) a law enforcement officer."

Page 2, line 4, delete "Except as provided in subsection (b), an" and insert "**If :**

(1) a person:

(A) owns or has control of real property where a person described in section 1(a) of this chapter is bitten; and

(B) owns the dog that bites the person described in section 1(1) of this chapter;

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(2) the person who is bitten incurs serious bodily injury from the dog bite; and

(3) the person referred to in subdivision (1) knowingly or intentionally:

(A) fails to have conspicuously posted on the property, at the time of the dog bite, a sign that:

(i) is readable from a public way adjoining the property; and

(ii) warns that a dog is present on the real property; or

(B) if a sign described in clause (A) is not posted on the property, fails to take reasonable steps to restrain the dog when the person is bitten;

the person referred to in subdivision (1) commits a Class B misdemeanor."

Page 2, delete lines 5 through 23.

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"(c) If a person required to enter a dog owner's property for the purpose of discharging a duty described in section 1(a) of this chapter is unable to enter the dog owner's property due to the presence of the owner's dog, the person shall:

(1) notify the dog owner by certified mail, return receipt requested, that the person is required to enter the dog owner's property; or

(2) obtain an order from a court authorizing the person to enter the dog owner's property."

(Reference is to ESB 295 as printed April 6, 2001.)

WHETSTONE

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